

## **OPI Pulse: Court Reform**

### **Background:**

Florida's court system consists of several levels of jurisdiction including county courts, circuit courts, District Courts of Appeal and a single statewide Supreme Court. In Florida's court system, some judges are elected, such as county and circuit judges, while others are appointed like Supreme Court Justices or District Courts of Appeal judges. In all courts across the state, Florida's court rulemaking process governs the procedures judges must use in their courtrooms. There are many different rules depending on the type of case being tried, but examples include rules for criminal procedures, civil procedures, family law procedures and even traffic court procedures. Court rules help ensure justice system processes are fair and uniformly applied. In addition to the requirement that Florida's judges adhere to the same rules across the state, all Florida judges are also subject to review and investigation by the Judicial Qualifications Commission (JQC). The JQC is an independently appointed body responsible for investigating allegations of misconduct against judges. These investigations can lead to the discipline of judges on any level within the Florida court system including the Supreme Court.

The Florida Supreme Court is the highest court in the state and the final arbitrator of cases in Florida. The Court consists of seven Justices appointed by the Governor, each serving a six-year term. The Justices of the Supreme Court select among themselves a Chief Justice to be responsible for the administrative functions of the Court. Chief Justices serve in this capacity for two years. The Florida Supreme Court conducts business year-round addressing both criminal and civil appellate matters. Cases that may be heard before the Florida Supreme Court include cases involving questions as to the constitutionality of a statewide issue, cases deemed by a District Court of Appeal as "of great public importance" across the state, and cases where two or more District Courts of Appeal have an expressed and direct conflict with one another. On average, the Supreme Court hears approximately 2,500 cases a year.

### **Issues at a Glance:**

Members of the House Judiciary Committee passed House Joint Resolution 7111 and House Implementing Bill 7199 on Thursday, April 7, 2011. The Joint Resolution and implementing bill propose several changes related to the structure and function of Florida's court system. Proponents of the legislation have expressed the following reasons for the legislation:

- Proponents assert the current Supreme Court structure has contributed to lengthy delays in the resolution of the court's caseload. Proponents stress that due to the volume of cases and the necessity that each justice be well versed in both complex civil and criminal issues, the court is unable to operate as efficiently and effectively as possible.
- Proponents favor modeling the state's court system nomination and confirmation process after the system utilized by the federal government.

## **Quick Look:**

***This document includes:***  
Background Information,  
Quick Facts, and  
Frequently Asked  
Questions about House  
Joint Resolution 7111 and  
Implementing Bill 7199  
sponsored by the [Judiciary  
Committee](#) chaired by  
[Representative Snyder](#).

## **Quick Facts:**

### **Florida Court System**

- County Court
- Circuit Court
- District Courts of Appeal
- Supreme Court

### **Current Florida Supreme Court Justices:**

- Chief Justice Charles T. Canady
- Justice Barbara J. Pariente
- Justice R. Fred Lewis
- Justice Peggy A. Quince
- Justice Ricky Polston
- Justice Jorge Labarga
- Justice James E.C. Perry

## Terms to Understand:

**Substantive Law:** Governs the rights and obligations of those who are subject to the law. This type of law defines the legal relationship between people or between people and the state.

**Procedural Law:** Determines the rules for what happens in both criminal and civil proceedings. Procedural law provides the machinery for enforcing rights and duties.

- Proponents stress the current Judicial Qualifications Commission system does not foster accountability to the public among members of the judicial branch. Due to existing confidentiality law, members of the Florida House, which is constitutionally charged with administering the process by which a judge might be impeached, are prohibited from knowing of or understanding cases of alleged judicial misconduct being investigated by the JQC. Proponents argue this lack of access is contrary to the spirit of accountability among Florida's three branches of government.
- Proponents assert the Florida Supreme Court has previously honored a low number of the Legislature's legally authorized court rule repeals, rendering the Legislature's ability to check and balance the court rule adoption process by a 2/3 supermajority vote moot.

### What the Bills Do:

House Joint Resolution 7111 proposes a Constitutional Amendment to address reforms to Florida's court system structure and function. In addition, House Bill 7199 addresses conforming changes necessary in law to implement the proposed changes. Among other things, the legislation would:

- Create two divisions within the Florida Supreme Court: the Division of Criminal Appeals and the Division of Civil Appeals.
- Expand the number of Supreme Court Justices from seven to ten, permanently assigning five Justices to the Civil Division and five Justices to the Criminal Division.
- Require Senate confirmation of the Governor's appointed Supreme Court Justices.
- Establish a 90-day Senate confirmation window to confirm a Supreme Court Justice nominee. Should the Senate fail to vote on the nomination within 90 days, the Justice will be considered confirmed.
- Require the Governor to appoint a Chief Justice in each division of the Supreme Court, assigning each Chief Justice with overall responsibility for court administrative procedures and processes on a four-year rotation.
- Grant members of the Florida House of Representatives, as the body responsible for judge impeachment proceedings, access to the compliant files of the Judicial Qualifications Commission at the request of the Speaker, at any time. The bill requires the complaint files be kept confidential until the information is used in the pursuit of impeachment.
- Expand the ability of each division of the Supreme Court to consider conflicts between appellate districts or cases of great public importance.
- Leave rulemaking authority with the judicial branch but allow the Legislature to repeal a court rule with a majority vote. The repeal process would require that the Legislature identify the expressed justification for the repeal and allow the judicial branch the opportunity to modify the court rule to address the concerns raised. Should the judicial branch proceed to enact the same rule,

the process would allow the Legislature to repeal the rule irrevocably by a second majority vote.

- Provide for a minimum annual appropriation for the courts from all revenue sources equal to 2.25 percent of General Revenue.

## Court Resources:

[Florida State Courts](#)

[Florida Supreme Court](#)

[Judicial Qualifications  
Commission](#)

## Additional Information:

[OPI Pulse: Criminal and  
Civil Courts of Appeal](#)

[OPI Pulse: Court Rule  
Adoption](#)

[House Bill 7101: Judicial  
Nominating Commissions](#)

## Frequently Asked Questions: Court Reform

### ***Who would appoint the members to the Supreme Court's two divisions?***

The Governor would have the authority to appoint members to both the Supreme Court Criminal Appeals Division and the Supreme Court Civil Appeals Division.

### ***What will happen to the current Justices of the Supreme Court if the legislation is passed?***

Florida's current Supreme Court Justices will remain on the bench. The three most senior members of the Court will be assigned to the Division of Criminal Appeals and the four remaining Justices will be assigned to the Division of Civil Appeals.

### ***Won't the creation of two divisions make the system less efficient?***

Proponents of the bill feel this is not the case. They believe since the two divisions will have Justices with specialized experience in either criminal or civil proceedings, the appeals process will be more efficient. In addition, they believe the entire justice system will benefit from this concentrated, high-level of expertise on the bench.

### ***How is creating two divisions of the Supreme Court any different from creating two Supreme Courts as proposed in previous legislation?***

Proponents of the legislation believe creating two divisions within the Supreme Court is a better alternative than creating two distinct Supreme Courts with separate caseloads and administrative functions. Proponents stress a single Supreme Court with two divisions could share administrative costs while allowing Justices to work within their specialized fields.

### ***Why is it necessary to mandate a certain percentage of funding be provided to the court system each year?***

Proponents believe establishing a standardized minimum appropriation in correlation to the overall state budget will ensure the court system continues to receive funding relative to the overall health of the entire state budget.

### ***How much funding would the court system receive if this proposed constitutional amendment were to pass?***

The House budget for the 2010-11 fiscal year appropriated \$462 million to the Florida court system which is equal to 1.94 percent of the state's total General Revenue budget. If the proposed minimum, which is an annual court system appropriation from all sources equal to 2.25 percent of General Revenue, were to pass proponents assert the courts would receive approximately \$73 million more than the 2010-11 court system budget.